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MAILING ADDRESS

November 27, 2013

Robin S. Hammer
City of Albuquerque
Independent Review Organization
PO Box 1293
Albuquerque, NM 87103

RE: Albuquerque Police Officers Association; Violation of Contract

Dear Ms. Hammer,

As you know, the Law Office of Sanchez, Mowrer & Desiderio, PC has been retained by the Albuquerque Police Officers Association to represent it concerning its general business affairs, to include issues with regard to the Collective Bargaining Agreement, which is been entered into between the Albuquerque Police Officers Association and the City of Albuquerque. Please send any future communications concerning this specific letter to the below address and to my attention.

It has come to my attention that over the past several months the IRO Office has entered into a practice of divulging information which has been made available to it by the Internal Affairs Division of the Albuquerque Police Department with respect to disciplinary investigations which violates the contract. Specifically, I am referring to §20.1.10 of the contract, which outlines the contractual responsibility of the Albuquerque Police Department, the Internal Affairs Division, and the Independent Review Officer, with respect to investigations which are being conducted.

Specifically, I am referring to the language contained in §20.1.10, which indicates:

“All compelled statements will remain confidential and be used only for the Independent Review Officer's investigation. Unless the City is ordered to release documentation pursuant to an Order issued by a Court of competent jurisdiction, the compelled statements will only be released to Internal Affairs, the Chief of Police, the City Attorney, the Independent Review Officer, the involved officer and his or her representation. Information from the compelled statements shall not be made public to the City.”

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"The Independent Review Officer may prepare an investigative summary of the discipline administered by the Department. The only information released to the Police Oversight Commission will consist of the alleged charges, disposition of the case (i.e. findings of sustained, not sustained), and any discipline imposed."
(See enclosed.)

I have been advised despite this specific language in the contract with respect to what information can be disclosed to the Police Oversight Commission, your office has in fact been providing substantially more information out of investigations. From my review of documents, it appears what your office is doing is providing the type of information called for when an appeal is taken. See below:

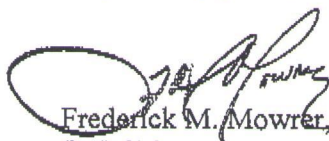
"If an appeal is taken, the Independent Review Officer may provide a summary of conclusions to the Police Oversight Commission. The summary would be in his/her own words and would be a synopsis of the investigation. The summary of conclusions shall not contain any direct quotes, statements or actual language as contained within the compelled statement."

Based upon the information which has been provided to me by the Albuquerque Police Officers Association, you are misusing the steps which have been built into the contract for purposes of keeping the Police Oversight Commission informed.

Therefore, please consider this letter as a Cease-and-Desist Demand on your office to stop the ongoing conduct of providing the complained of information to the Police Oversight Commission. If you do not comply with my request that you honor the terms in the contract I will file necessary paperwork with the appropriate judicial body to ensure that the contract is honored.

If you have any questions please do not hesitate to contact me.

Respectfully yours,



Frederick M. Mowrer, Esq.
FMM/akg

Enclosures: As indicated

cc: APOA President Stephanie Lopez

1 only be released to Internal Affairs, the Chief of Police, the City Attorney,
2 the Independent Review Officer, the involved officer and his/her
3 representative. Information from a compelled statement shall not be made
4 public by the city.
5

6 The Independent Review Officer may prepare an Investigative summary of
7 discipline administered by the Department. The only information released
8 to the Police Oversight Commission, will consist of the alleged charges,
9 disposition of the case (i.e. findings of sustained/non-sustained), and any
10 discipline imposed.
11

12 If a complainant citizen appeals the discipline that has been issued to the
13 target officer, the investigative file, minus the compelled statements, may
14 be forwarded to the Police Oversight Commission for its review.
15

16 If an appeal is taken, the Independent Review Officer may provide a
17 summary of conclusions to the Police Oversight Commission. The
18 summary would be in his/her own words and would be a synopsis of the
19 investigation. The summary of conclusions shall not contain any direct
20 quotes, statements or actual language as contained within the compelled
21 statement.
22

23 Any information released to the Police Oversight Commission shall not
24 contain information that identifies sworn department personnel; this
25 includes any report completed by the Independent Review Officer, and
26 any statements by complainants, witnesses, target officers, suspects, etc.
27 An officer can allow portions or summaries of his/her compelled
28 statements to be released to the Police Oversight Commission if he/she
29 chooses. Should the officer choose not to release summaries or the
30 compelled statements, this shall not be considered as a lack of
31 cooperation in the process. The Chief of Police will have access to all
32 compelled statements for the purpose of disciplinary decisions.
33

34 Nothing contained herein shall be the basis for an individual waiving
35 his/her Fifth Amendment rights under the Constitution of the United States
36 of America.
37

38 20.1.10.1 The Association will, upon direction of the Chief of Police
39 or the Chief's designee, comply with the Police Oversight
40 Ordinance by submitting to interrogations in connection with
41 administrative investigations by the Independent Review Officer
42 and/or full-time investigators employed by the City.
43

44 20.1.10.2 The named administrative investigators shall be bound
45 by all the provisions of this section of the Collective Bargaining